

IN THE UNITED STATES DISTRICT COURT

THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JOHN TAM and TAMAMI OKAUCHI,
husband and wife, a marital community, and
JOHN TAM, as personal representative for
the Estate of G. T.,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA;
d/b/a MOUNT BAKER-SNOQUALMIE
NATIONAL FOREST, operated by the U.S.
FOREST SERVICE, a division of the
UNITED STATES DEPARTMENT OF
AGRICULTURE,

Defendant.

No.

COMPLAINT FOR PERSONAL INJURIES
AND WRONGFUL DEATH

PLAINTIFFS ALLEGE:

I. JURISDICTION AND VENUE

1.1 Jurisdiction for this cause of action is based on 28 U.S.C. § 1346(b). This civil action involves a claim against the United States resulting from negligent conduct of the United States of America, d/b/a Mount Baker-Snoqualmie National Forest, a division of the United States Department of Agriculture.

COMPLAINT-1.

MESSINA BULZOMI CHRISTENSEN, P.S.

Original

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1.2 Venue is proper under 28 U.S.C. § 1402(b). The conduct alleged to be negligent occurred, and the plaintiffs reside, within this judicial district. Defendant is the United States of America, d/b/a Mount Baker-Snoqualmie National Forest, a division of the United States Department of Agriculture, and cause of action arose in the Northern Division of the Western District of Washington.

II. PARTIES

2.1 At all times material hereto, plaintiffs John Tam and Tamami Okauchi were husband and wife and residents of the Lake Stevens, Snohomish County, Washington.

2.2 At all times material hereto, plaintiff G. T., deceased, was the natural daughter of plaintiffs John Tam and Tamami Okauchi, and was a resident of Lake Stevens, Snohomish County, Washington. G. T. was a minor at the time of her death. She resided with her parents, named above.



2.3 That plaintiff John Tam is the duly appointed and acting personal representatives of the Estate of G. T., deceased. He is a resident of Snohomish County, Washington.

2.4 Defendant is the United States of America, acting by and through its agencies and employees of the Mount Baker-Snoqualmie National Forest, the U.S. Forest Service, a division of the Department of Agriculture.

2.5 Defendant, United States of America, Mount Baker-Snoqualmie National Forest, a division of the United States Department of Agriculture, owned, maintained, operated, and held open to the public, for a fee charged for access, the area known as the Big Four Ice Caves near Verlot, Washington.

III. PROCEDURAL REQUIREMENTS

3.1 On or about March 21, 2011, plaintiffs filed Federal Tort Claims for Damages with the United States, satisfying the procedural requirement of 28 U.S.C. § 2675(a) and the time limit requirement of 28 U.S.C. § 2401. Six months have now passed and the United States has failed to accept or deny the claim or otherwise take any action.

IV. FACTS AND BACKGROUND

4.1. On July 31, 2010, the Tam family, John, Tamami, and their children, G. T. (age 11, now deceased), William (age 9), and two Japanese exchange students living with them, traveled to the Big Four Ice Caves Trailhead in the Mt. Baker-Snoqualmie National Forest to begin a family hike.

4.2. The Tam Family lived nearby in Lake Stevens, Washington at the time.

4.3. July 31, 2010 was a fair summer Saturday in the northwest. The weather was nice and the temperature warm.

4.4. The Tam family reached the trailhead parking lot by approximately 11:40 AM. They had planned to hike the short trail through the woods together and eat a packed lunch once they reached the Ice Caves. They intended this trip to be a safe and fun family outing.

4.5. The Mt. Baker Snoqualmie National Forest is one of the most visited National Forests in the country. It has over 5.4 million visitors per year. The Big Four Ice Caves is situated within that forest and is one of the most popular hiking destinations there.

4.6. Big Four Ice Caves is easily accessed by a short and exceptionally well maintained trail. The gentle trail gains approximately 200 feet or less in elevation from the trailhead to the Ice Caves. The distance from trailhead to the ice caves is approximately one mile.

4.7. Parts of the trail consist of elevated wooden boardwalk with railings. Several bridges built on steel I-beams cross creeks and small ravines along the route to maintain the trail's relatively flat grade. The trail surface is constructed of smooth packed gravel. Tree roots have been removed from the trail surface. The trail is approximately four feet wide and bordered by culverts. It has a very gradual grade. A large metal bridge crosses the South Fork Stillaguamish River soon after the trailhead. A portion of the trail from the main trailhead is paved with blacktop.



4.8. The Big Four Ice Caves is known by the Forest Service to be a heavily visited area. The Forest Service describes the usage of trail #723 which accesses the Ice Caves as "heavy."

4.9. The Forest Service classifies trail #723 to the Ice Caves as "Family Friendly ADA Accessible." The configuration of the trail as well as its classification as "family friendly"



makes the Ice Caves a popular trail for families with young children. The trail is also accessible and popular with people who experience mobility impairments. The accessible design of the trail and the short distance of the hike increase its allure to

visitors.

4.10. Many visitors are also drawn to the Big Four Ice Caves due to the fact that one can reach snow throughout the summer at a relatively low elevation and after only a short hike.

1 The presence of year round snow makes the Big Four Ice Caves attractive to families with
2 children who want to play in the snow in the summer.

3 4.11. The Forest Service charges a fee at the trailhead of trail #723 to use the area. The
4 U.S. Forest Service requires a "Recreation Pass" or "Northwest Forest Pass" to be purchased to
5 use the trailhead to access the trail to the Big Four Ice Caves. There is a collection box at the
6 trailhead(s). A pass may also be purchased at the Verlot Ranger Station before reaching the
7 trailhead where automated pay stations are located.

8 4.12. The parking lot entrance is clearly marked "U.S. Fee Area" with prominent signs
9 warning visitors to pay the required fee. The trailhead is also well marked with signs designating



10 it as a "U.S. Fee Area."
11 A collection box with
12 envelopes for fee
13 payment is present at the
14 trailhead(s) and clearly
15 indicates that the area is
16 not to be used unless a
17 fee is paid. There is no

18 other practical or apparent way to access the Big Four Ice Caves without using the designated
19 trailhead where the fee is required.

20 4.13. The Forest Service has installed more signs regarding the "fee area" than signs
21 warning users of the dangers associated with the area.

1 4.14. The Big Four Ice Caves are a dramatic sight. They are formed by avalanche snow
2 that collects at the base of the Big Four Mountain.

3 Big Four Mountain raises thousands of feet
4 vertically above the valley floor. Snow
5 accumulates throughout the winter in enormous
6 quantities. As it cascades off Big Four Mountain,
7 the snow forms huge pyramid shaped piles of snow
8 that rest against the granite walls of the Mountain
9 and fan out across a broad debris field. The actual
10 ice caves are formed in these accumulations by
11 melting snow and water runoff which erodes



12 tunnels or channels through the snow. Some of the tunnels are cavernous, others small. The
13 landscape of snow and ice at this location is constantly changing throughout the year.

14 4.15. The Ice Caves are well known to the Forest Service for the occurrence of
15 avalanches. Evidence of avalanche damage is present all around the base of the ice caves. In
16 2008, a large avalanche toppled numerous trees and caused widespread damage to the area.

17 4.16. The enormous accumulations of snow which form the Big Four Ice Caves recede
18 throughout the spring, summer and fall. The recession occurs through melting. As the snow
19 melts it is known by the Forest Service to collapse and crumble. The Forest Service is also



20 aware that large pieces of
21 snow and ice can fracture or
22 calve off of the larger
23 mounds of snow and ice in



1 huge, boulder-sized pieces. The Forest Service is well aware of this process and the dynamics of
2 snow recession at the Big Four Ice Caves. The snow and ice at the Big Four Ice Caves is
3 unstable. The Forest Service has been aware of the unstable snow conditions at the Big Four Ice
4 Caves long before G. T.'s death.

5 4.17. The snow and ice at the Big Four Ice Caves becomes more dangerous and
6 unstable in the summer months as the temperature increases. Melting accelerates and the snow
7 becomes denser. Dynamic snow and ice events are common. Unfortunately, the snow and ice
8 accumulations at the Big Four Ice Caves become more dangerous in the warm summer months,
9 just when the caves are busiest with visitors. This coincidence results in large numbers of people
10 exposed to dangerous and unstable snow and ice.

11 4.18. The snow formations which make up the Big Four Ice Caves, despite being the
12 area's biggest attraction, are unstable and constitute area's most dangerous feature. A simple
13 "Google search" will produce numerous images of visitors in the caves and on top of the snow.
14 Many of these people undoubtedly are unaware of the dangerous snow and ice they are near. A
15 Forest Service employee could likely observe visitors in the caves and on the snow on any given
16 Saturday or Sunday during the busy summer months. Unfortunately, the Forest Service took no
17 steps to warn visitors of this dangerous dichotomy when the Tam family visited.

18 4.19. Due to the extremely high visitor traffic at the Big Four Ice Caves, as well as the
19 dangerous and unstable snow formations, the Forest Service had intermittently in prior years
20 posted a warning to visitors to not go into the actual ice caves. The Forest Service was aware
21 that these warning signs were sometimes removed, stolen or damaged during the winter storms.
22 However, the Forest Service had no known plan or procedure in place to regularly check and
23 maintain the warning signs.

1 4.20. At the time of G. T.'s death on July 31, 2010, no warning signs existed on trail
2 #723 to the Big Four Ice Caves. The warnings posted in prior years had not been replaced or
3 maintained by the Forest Service. On the day of the Tam family's visit to the Big Four Ice
4 Caves, there was nothing to warn them of the dangerous and unstable snow conditions they
5 would encounter. They were wholly unaware of any particular dangers of the nearby Ice Caves.

6 4.21. The Forest Service did mention some general snow safety information within an
7 informational plaque near the trailhead. The information was imbedded within a large
8 interpretive sign. A small section of the sign warned visitors "Do Not Enter the Ice Caves."
9 There was no warning as to the degree of risk of harm associated with approaching the snow
10 formations or standing near them or in front of them.

11 4.22. The informational plaque as it existed at the time of G. T.'s death was wholly
12 inadequate and failed to appraise users of the particular and life threatening dangers of the area
13 which were well known to the Forest Service at the time. The plaque as it pertained to snow
14 safety was inconspicuous.

15 4.23. The area around the snow formations in front of the Big Four Ice Caves is riddled
16 with trails and paths. These trails have been beaten into the landscape by visitors to the area of
17 the course of many, many years as visitors approached the snow formations to enter or examine
18 the caves or play on the snow. These trails give visitors the sense that it is safe to travel the trails
19 around the snow and invite visitors to approach the snow.

20 4.24. The Forest Service posted no signs warning users to stay on the main trail #723.
21 Users of the Big Four Ice Caves trail were given no warning that if they left the main trail and
22 approached the snow they would be exposed to dangerous, unstable snow and ice which could
23 collapse and crumble or fall upon them without warning at any moment.

1 4.25. The Forest Service posted no information for visitors as to what constituted a
2 “safe distance” from the snow and ice accumulations.

3 4.26. The Forest Service took no efforts to demark a line of danger which users of the
4 area should not cross. Equally, no signage or warnings were present which demarcated a “safe
5 zone” for viewing the Ice Caves when G. T. and her family visited on the date of her death.



4.27. There was no attempt to contain
users on the main trail with physical
boundaries. The Forest Service was well
aware of the fact that many, many users
ventured beyond the end of the main trail and
even into the caves themselves. This is
evidenced by the network of well-beaten paths
and trails around the snow formations.

14 4.28. The informational plaque present at the trailhead of trail #723 at the time of
15 G. T.'s death did not warn visitors of the danger of falling snow. The inconspicuous plaque did
16 not warn users of avalanches. It did not warn of rolling chunks of snow and ice. The sign did
17 not warn users to stay clear of the snow and ice. It provided no information as to what a “safe
18 distance” from the snow formation would be. Critically, the plaque did not warn users of the risk
19 of harm associated with the dangerous, unstable snow and ice at the Ice Caves despite the fact
20 that the snow was an attractive condition to visitors which constituted a danger most visitors
21 could not appreciate. There were no further plaques on the trail itself or at the Big Four Caves
22 when G. T. visited with her family.

1 4.29. Other visitors have been injured and/or killed by falling snow and ice at the Big
2 Four Ice Caves before G. T.'s death. On August 2, 1998 one person was injured and another
3 killed by collapsing snow at the Big Four Ice Caves. Other injuries due to snow and ice
4 instability have also occurred over the years. The Forest Service was aware of these incidents
5 and did nothing to improve awareness and safety at the area.

6 4.30. Warnings and barricades on and around dangerous natural features are nothing
7 new in the National Forest or other public outdoor lands. For instance, countless barricades,
8 guards and railings exist in places like Yellowstone National Park and the Grand Canyon. These
9 protect visitors from hazards such as dangerous surfaces, geysers, cliffs, and/or unstable ground.
10 At Half Dome in California, the Forest Service has posted warnings for hikers that the rock there
11 is slick and that serious injury and death could occur in a fall. It also has posted warnings to not
12 proceed beyond designated "safe lines" in the event of lightning. Countless campgrounds post
13 warnings for visitors about bears and other wild animals. In other locations the Forest Service
14 has posted warnings about steep cliffs and bluffs. Warnings to "stay on the trail" are also
15 common. In other locations, warnings about tidal conditions and surf are common. On Mt.
16 Rainier warnings exist which appraise visitors of crevasses in the snowfields. In White
17 Mountain National Forest in New Hampshire, the Forest Service posts warnings about falling ice
18 and avalanche danger. In areas frequented by snowmobiles around the country, the Forest
19 Service frequently posts warnings about dangerous avalanche paths. In many instances, the
20 areas where the Forest Service has posted warning signs are not nearly as well maintained,
21 highly accessible, and heavily trafficked as the Big Four Ice Caves.

22 4.31. On July 31, 2010, the Tam Family had an easy, uneventful walk along trail #723
23 to the Big Four Ice Caves. They had two Japanese exchange students with their family. At
24

1 approximately 2:00PM, the Tam family had finished lunch and set off to view some of the snow
2 formations. There were many visitors in the area on that day. The Tam family set out along one
3 of the many well beaten trails paralleling the base of the Big Four Ice Caves. They were well in
4 front of the snow formations and did not venture inside the caves.

5 4.32. The Tam Family was impressed by the snow formations. After reaching the
6 second formation, they decided to pose for a photograph with the snow in the background. The
7 area seemed safe as they were not on the snow or even near one of the actual caves. They stood
8 on the rocks in front of the snow in an area that seemed safe. They were not in or on any of the
9 ice caves.

10 4.33. G. T., Tamami, William, and the exchange students were positioned well in front
11 of the second ice formation while John prepared to snap a family photo. Just as John prepared
12 his camera, an enormous boulder of ice broke off of the top of the snow and ice formation behind
13 the family. The ice boulder had calved off of the formation and rolled down the rocky hill. It
14 struck G. T., 11 years old, suddenly and without notice. Although the ice boulder missed
15 Tamami, William and the exchange students, G. T. was crushed by the enormous, truck-sized
16 piece of ice.

17 4.34. G. T. survived the initial impact, but was critically injured. She was brought to a
18 nearby flat rock, where she was attended to by her family and some other visitors. Life saving
19 efforts were started.

20 4.35. One nearby visitor assisted by donating a jacket to put over G. T. to keep her
21 warm.

22 4.36. G. T.'s father asked her how she felt and she faintly reported that she was not in
23 pain but could not feel her legs.

1 4.37. The Tam family tried to keep G. T. awake and conscious by asking her questions
2 about her favorite food, her favorite teacher, her best friend and her favorite singer.

3 4.38. G. T. struggled to hang on to life as her condition worsened.

4 4.39. A fellow visitor who was a nurse helped attend to G. T. She was unable to detect
5 G. T.'s pulse after about an hour. They started CPR.

6 4.40. One of the nurses attempted to intubate G. T. in the field in an effort to help save
7 her life.

8 4.41. No radio or cell service is available at the Big Four Ice Caves. As G. T.'s family
9 stayed with her, another visitor hurried down the trail to reach help. 911 records indicate that the
10 Snohomish County Sheriff's office received a distress call at about 2:30PM.

11 4.42. G. T. suffered in agony for approximately an hour while her family watched
12 helplessly waiting for help to arrive. John, Tamami and William stayed by G. T.'s side while
13 they and others attempted to soothe G. T. and keep her comfortable as she slowly slipped away.

14 4.43. By 4:15 PM emergency medical personnel had arrived from Granite Falls,
15 Washington. They arrived with a mobile suction unit that had a dead battery. However, they
16 were able to attempt lifesaving efforts manually.

17 Lifesaving efforts were not successful.

18 4.44. Eleven-year-old G. T. was pro-
19 nounced dead at approximately 5:00 p.m. on July
20 31, 2010 in the presence of her family. The
21 cause of death was a crushed pelvis and other
22 internal crush injuries. The Tam family
23 continues to suffer the tragic loss of their beloved



1 daughter. Every day is a struggle for the John and Tamami to live without their daughter.

2 4.45. G. T. was in fifth grade at Kellogg Marsh Elementary School at the time of her
3 death. She was an excellent student and earned straight "A's" in school. She loved her family
4 and her dog Sugar. She was full of life, energy and curiosity. She loved to write, draw and keep
5 a scrapbook. G. T. was a good-hearted young girl who helped others. She dreamed of one day
6 opening a shelter for mistreated pets.

7 4.46. After G. T.'s death the Forest Service re-posted one warning sign on trail #723
8 which reads, "Ice Caves are unstable and will collapse. Do not enter or climb on top of the ice
9 caves." This sign was posted on a tree near the end of the trail where it opens to the Big Four Ice
10 Caves.

11 4.47. Apparently, this sign or a similar
12 version had been posted in the past by the Forest
13 Service. Tragically, it was not present on the day
14 the Tam's visited the Ice Caves. The Forest
15 Service undertook no efforts to replace these signs



16 despite the fact that its rangers and maintenance staff visit the area frequently. The Forest
17 Service was aware of the fact that the warning signs had not been replaced at the time of G. T.'s
18 death.

19 V.

20 5.1 At all times material to the complaints and allegations contained herein, plaintiffs
21 were invitees upon the premises of the defendant. Defendant had an affirmative duty of
22 reasonable care to discovery dangerous conditions on the premises, eliminate such conditions if
23

1 possible, guard against such conditions if they cannot be eliminated, and/or warn invitees of their
2 presence.

3 5.2 The carelessness and negligence of the defendant caused the death of G. T. and
4 the subsequent psychological trauma to John and Tamami. As a result of his daughter's death
5 John lost his job. John is consumed with grief and is no longer able to contribute to his place of
6 employment in a meaningful and productive manner. The death of G. T. and the loss, pain, and
7 suffering of John and Tamami were the direct and proximate result of the negligence,
8 carelessness, and injurious conduct of the defendant named including, but not limited to the
9 following:

10 1. Failure to disclose to and warn public invitees of the extraordinary risks and
11 dangers present near the Ice Caves which were known to the Forest Service on and before
12 the death of G. T. despite the fact that these risks were not readily apparent to visitors;

13 2. Failure to guard public invitees from extraordinary risks and dangers present near
14 the Ice Caves which were known to the Forest Service on and before the death of G. T.
15 despite the fact that these risks were not readily apparent to visitors;

16 3. Failure to eliminate the extraordinary risks and dangers present near the Ice Caves
17 which were known to the Forest Service on and before the death of G. T. despite the fact
18 that these risks were not readily apparent to visitors and public invitees;

19 4. Failure to follow its own policy and procedures intended to warn and protect public
20 invitees from known harms;

21 5. Failure to exercise reasonable care to maintain the premises in a safe and
22 reasonable manner by failing to re-post warning signs on the trail which had existed in
23 prior years but were not present on the date of G. T.'s death;

1 6. Failure to exercise reasonable care to maintain the premises in a safe and
2 reasonable manner by failing to re-post warning signs on the trail which had existed in
3 prior years and despite having assumed a duty to do so;

4 7. Failure to exercise reasonable care to maintain the premises in a safe and
5 reasonable manner by failing to close well beaten trails and paths to the snow formations
6 which were known by the Forest Service to take visitors dangerously close to the snow;

7 8. Failure to exercise reasonable care to maintain the premises in a safe and
8 reasonable manner by failing to barricade snow formations and trails leading to them
9 which were known by the Forest Service dangerous;

10 9. Failure to exercise reasonable care to maintain the premises in a safe and reasonable
11 manner by failing to demarcate a "safe zone" for viewing the snow formations.

12 10. Failure to exercise reasonable care to maintain the premises in a safe and
13 reasonable manner by failing to warn public invitees to stay on the main trail;

14 11. Allowing a known latent dangerous condition to exist on the premises in an area
15 the defendant provided and invited public access;

16 12. In acting negligently, recklessly and carelessly with respect to the duty to protect
17 the public from dangerous snow and ice.

18 5.2 All of the above acts and/or omissions, and any others which might subsequently
19 be discovered by plaintiffs, fell below the standard of care owed to visitors of the Big Four Ice
20 Caves and trail #723 in the Mt. Baker Snoqualmie National Forest.

1 **VI.**

2 The proximate cause of the aforementioned injuries was the negligence of the defendant,
3 United States of America, Mount Baker-Snoqualmie National Forest, a division of the United
4 States Department of Agriculture.

5 **VII.**

6 As a direct and proximate result of the negligence and carelessness of the defendant, G.
7 T. died and suffered agony and conscious pain and suffering. Her parents, John and Tamami,
8 have suffered severe and irreparable psychological and emotional injuries, which have
9 necessitated care and treatment, which will continue for an indefinite amount of time in the
10 future. John and Tamami lost the love, affection, companionship, services, care, and support of
11 their daughter, G. T. This horrible tragedy permanently severed their parent-child relationship.

12 **VIII.**

13 As a direct and proximate result of the negligence and carelessness of the defendant, the
14 plaintiffs have been specially and generally damaged in an amount to be fully proven at the time
15 of trial.

16 WHEREFORE, plaintiffs pray for judgment against the defendant for such sums of
17 money as will reasonably and justly compensate them for their damages sustained as
18 hereinbefore alleged, together with their costs and disbursements herein to be taxed, and for
19 prejudgment interest.

20 DATED this 20 day of December, 2011.

21 MESSINA BULZOMI CHRISTENSEN

22 By 

23 STEPHEN L. BULZOMI 15187

JAMES W. MCCORMICK 32898

24 Attorneys for Plaintiffs